

REMARKS

Claims 1 to 20 are pending in the present application. Claims 2, 4, 5, 7, 13, 15 and 16 have been amended. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable and reconsideration is respectfully requested.

Applicants thank the Examiner for allowing claims 8 to 11 and 17 to 20.

Applicants also note with appreciation the indication that claims 2, 4 to 7, 13, 15 and 16 include allowable subject matter. In this regard, claims 2, 4, 5, 7, 13, 15 and 16 have been rewritten in independent form to include all of the features of its base claim and any intervening claims. Claim 6 depends from claim 5. It is therefore respectfully submitted claims 2, 4 to 7, 13, 15 and 16 are in condition for immediate allowance.

Claims 1, 3, 12 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,642,756 ("Sherrod"). It is respectfully submitted that the Sherrod reference does not anticipate claims 1, 3, 12 and 14 for at least the following reasons.

To anticipate a claim under § 102, a single prior art reference must identically disclose each and every claim element. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997).

Independent claim 1 recites, in relevant parts, the following: "A control device for controlling a system, comprising . . . a scheduler activating the activatable modules as a function of the respective corresponding priority value of each of the activatable modules to provide activated modules, *the activated modules generating data by analyzing states of the system.*" Independent claim 12 recites similar limitations, i.e., "with the activated modules, generating data by observing states of the system."

It is respectfully submitted that the Sherrod reference does not disclose or even suggest activated modules that generate data by analyzing states of the system, as recited in claims 1 and 12.

The Office Action asserts that col. 4, lines 1 to 8, of the Sherrod reference disclose a plurality of activatable modules with corresponding priority values. However, col. 4, lines 1 to 8, of Sherrod merely indicate that storage and I/O peripherals 3', as well as user interactive terminal display 4', are connected to CPU 5', thereby allowing the computer system to access storage devices and "communicate with the outside world." Nothing in this

passage, or any other passage, of the Sherrod reference suggests "*the activated modules generating data by analyzing states of the system*," as recited in claims 1 and 12.

The Office Action also asserts that col. 4, lines 35 to 42, of the Sherrod reference disclose a priority manager modifying the corresponding priority value of at least one of the modules individually to one of increase and decrease the respective corresponding priority value relative to the priority value of another of the activatable modules. Applicants respectfully disagree since col. 4, lines 35 to 42, of Sherrod indicate that there are two priorities, an internal and an external priority, and that the internal priority may change from moment to moment depending on several events. The external priorities are only changed when so designated by the computer operator or when the task itself causes a change in external priority. So there is no priority manager shown, and there is no suggestion that the priority value is changed relative to the priority value of another module. Here, the Sherrod reference only states that the priority changes depending on the computer operator or depending on other events, but not depending on another task and not relative to a priority value of another task.

For at least the foregoing reasons, claims 1 and 12, as well as their dependent claims 3 and 14, are allowable over Sherrod.

CONCLUSION

In light of the foregoing, the Applicants respectfully submit that all of the pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

The Office is authorized to charge any fees associated with this Amendment to Kenyon & Kenyon Deposit Account No. 11-0600.

Respectfully submitted,

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